

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY)	
)	Docket No. 14-0312
)	
Annual Formula Rate Update and Revenue Requirement)	
Reconciliation under Section 16-108.5 of the)	
Public Utilities Act)	

**REBUTTAL TESTIMONY OF MICHAEL L. BROSCHE
ON BEHALF OF
THE PEOPLE OF THE STATE OF ILLINOIS**

AG Exhibit 3.0

August 13, 2014

ILLINOIS COMMERCE COMMISSION DOCKET NO. 14-0312
REBUTTAL TESTIMONY OF MICHAEL L. BROSCHE

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EXHIBIT LIST

AG Exhibit No. 3.1	Revised Summary of AG Proposed Adjustments
AG Exhibit No. 3.2	AG's response to Data Request ComEd->AG 4.01, with Attachment 1
AG Exhibit No. 3.3	ComEd's response to Data Request AG 6.13, with Attachments 1 and 2
AG Exhibit No. 3.4	ComEd's response to Data Request AG 7.01, with Attachment 1
AG Exhibit No. 3.5	ComEd's response to Staff Data Request RWB 14.01, with Attachment 1
AG Exhibit No. 3.6	ComEd's responses to Data Requests AG 7.06, with Attachment 1, and AG 9.06
AG Exhibit No. 3.7	ComEd's responses to Data Requests AG 9.07, 9.08, 9.09 and 9.10

I. INTRODUCTION / SUMMARY

1 **Q. Please state your name and business address.**

2 A. My name is Michael L. Brosch. My business address is PO Box 481934, Kansas
3 City, Missouri 64148-1934.

4
5 **Q. Have you prepared Direct Testimony that was previously filed in this**
6 **proceeding?**

7 A. Yes. My Direct Testimony and related exhibits were prepared on behalf of the
8 People of the State of Illinois represented by the Attorney General (“Attorney
9 General” or “AG”). These documents were identified as AG Exhibits 1.0 through
10 1.9.

11 **Q. What is the purpose of your Rebuttal Testimony in this docket?**

12 A. My testimony is responsive to the rebuttal testimony and exhibits submitted by
13 Messrs. Brookins, Prescott, Wathan, Warren, and Ms. Brinkman regarding the
14 recovery of incentive compensation costs and the treatment of reconciliation-related
15 ADIT balances within the formula revenue requirement calculations of
16 Commonwealth Edison Company (“ComEd” or “the Company”).

17 **Q. Please summarize the recommendations that are set forth in your testimony?**

18 A. My testimony responds to ComEd’s rebuttal positions regarding reconciliation-
19 related Accumulated Deferred Income Taxes (“ADIT”) and the ratemaking
20 treatment of Annual Incentive Plan (“AIP”) and Long Term Performance Share
21 Award Program (“LTPSAP”) costs. I continue to recommend that reconciliation-
22 related ADIT balances not be ignored for ratemaking purposes, but instead should

be included in rate base, if such ADIT balances are not treated as an offset in calculating reconciliation interest in accordance with Mr. Effron's testimony. I also continue to recommend that all of ComEd's AIP and Long Term Performance Share Award Program ("LTPSAP") costs incurred in 2013 be removed in determining the Company's revenue requirement.

Q. What information have you relied upon in formulating your recommendations?

A. I relied upon ComEd's rebuttal testimony and exhibits in this Docket and the Commission Staff's direct testimony, as well as the Company's responses to data requests submitted by the Commission Staff and the AG. I also relied upon my prior experience with the regulation of public utilities over the past 36 years, including significant experience in Illinois and with alternative forms of regulation for telephone and energy utilities.

Q. Have you prepared any revised accounting schedules to summarize the adjustments being proposed in your testimony?

A. Yes. AG Exhibit 3.1 is a revised calculation of the revenue requirement changes proposed in my direct testimony. The amounts stated therein are modified to comport with: 1) revisions made within ComEd Exhibit 13.02 at WP 4 regarding Accumulated Deferred Income Tax ("ADIT") balances, 2) corrections noted within ComEd Exhibit 12.01 REV regarding the full elimination of the Annual Incentive Plan ("AIP") costs, and 3) ComEd's larger self-disallowance of LTPSAP costs included in ComEd's rebuttal revenue requirement. As noted in my Direct Testimony, Mr. David J. Effron and I have not, with available time and resources, been able to conduct a complete review of *all* aspects of the Company's filing. As a

47 result, the limited adjustments we are proposing should be viewed as cumulative
48 with the work and recommendations of Commission Staff and other parties’
49 witnesses.

50
51 **II. RECONCILIATION DEFERRED TAXES.**
52

53 **Q. In her rebuttal testimony regarding reconciliation-related ADIT balances, Ms.**
54 **Brinkman states, “As Mr. Brosch notes, the AG and CCI most recently raised**
55 **this issue last year, in ComEd’s 2013 FRU case (ICC Docket No. 13-0318)**
56 **where Messrs. Brosch, Effron and Gorman all argued for the same**
57 **adjustments they propose now.”¹ Is there any difference in the adjustment you**
58 **are proposing “now,” in contrast to what you proposed in Docket Nos. 13-0318**
59 **and 13-0553?**

60 **A.** Yes. In my testimony filed in Docket No. 13-0318 and in Docket No. 13-0553,² I
61 recommended that the Commission reduce the reconciliation balance to which the
62 interest rate is applied, to recognize the Company’s actual incremental net
63 investment in such balances by offsetting the deferral of income taxes. This ADIT
64 offsetting approach to the calculation of reconciliation interest remains the primary
65 recommendation of myself and of the Attorney General, as more fully described in
66 Mr. Effron’s testimony in this pending FRU proceeding. The alternative adjustment
67 I am now recommending recognizes reconciliation-related ADIT within rate base.
68 This alternative treatment should be implemented only if the Commission continues
69 to reject the offset for ADIT in calculation of reconciliation interest to be charged to

¹ ComEd Ex. 12.0 at 25:510-512.

ratepayers that Mr. Effron supports. This alternative adjustment to include reconciliation-related ADIT balances in rate base is not as precise or accurate as the AG's primary recommendation and was not presented in the AG's evidence nor discussed by the Commission in its Orders issued in Docket Nos. 13-0318 or 13-0553.

Q. Ms. Brinkman states that, while the Commission, in the Final Order issued in Docket No. 13-0553, "...expressed theoretical sympathy for the argument in portion of the order Mr. Brosch quotes, the Commission ruled against all of the proposed adjustments." Has the Commission ever ordered that reconciliation-related ADIT balances should not be included in rate base when such ADIT balances are not considered in calculating reconciliation interest?

A. No. In its Final Order in Docket No. 13-0553 that I quoted in my Direct Testimony, the Commission did not mention any "theoretical sympathy" for the AG's primary recommendation, but instead stated very clearly, "[t]he Commission finds merit in the AG and CCI's proposal that accumulated deferred income tax, or ADIT should be netted against the reconciliation balance before calculating the interest amount." However, after stating its concerns about the lack of "clarity" within the relevant section of the law, the Final Order concluded:

For purposes of this proceeding, ComEd is entitled to the full reconciliation balance with interest calculated at a rate equal to the utility's weighted average cost of capital approved by the Commission for the prior year. 220 ILCS 5/16-108.5(d)(1). In the future, if further arguments from the parties are presented or clarity from the legislature is provided on this topic, the Commission will revisit the issue.³

² Docket No. 13-0318, AG Exhibit 1.0, pages 18-26; Docket No. 13-0553, AG Exhibit 1.0 at 15:331-342.

³ Docket No. 13-0553, Final Order dated November 26, 2013, page 43.

96 The alternative adjustment that I now propose, to include reconciliation-related
97 ADIT balances in rate base, is the necessary equitable treatment of the subject ADIT
98 amounts if the Commission continues to find that the law and the underlying facts
99 do not permit the interest offset previously advocated by the Attorney General and
100 by Mr. Effron in this pending docket.

101 **Q. With respect to your alternative ADIT adjustment, Ms. Brinkman states, “Mr.**
102 **Brosch, in the alternative, proposes to add this ADIT to rate base. This**
103 **proposal is also improper as it assigns an ADIT to rate base where no**
104 **corresponding asset exists in rate base.”⁴ Is this a valid argument?**

105 A. No. Under EIMA⁵, ComEd shareholders are allowed recovery of interest at the
106 utility’s full weighted average cost of capital (“WACC”) on the Company’s
107 Regulatory Asset investment associated with the reconciliation balance. It is
108 disingenuous and misleading to state that “...no corresponding asset exists in rate
109 base” when EIMA instead provides an interest return at the WACC on this
110 regulatory asset at ratepayers’ expense outside of rate base. An equitable matching
111 of costs and benefits requires that ratepayers receive the benefit of reconciliation-
112 related ADIT balances because they are responsible for an interest return on
113 reconciliation-related Regulatory Asset balances under the EIMA.

114 **Q. Ms. Brinkman states that your direct testimony “acknowledges” that the**
115 **Commission has not approved “offsetting the reconciliation balance earning**
116 **interest” in prior formula rate orders. She then concludes, “[s]o, despite**
117 **repeated efforts, the adjustment has not been adopted in any proceeding.” Is**

⁴ ComEd Ex. 12.0 at 26:538-540.

118 **“the adjustment” that Ms. Brinkman is referencing the Attorney General’s**
119 **alternative adjustment to include reconciliation-related ADIT balances in rate**
120 **base?**

121 A. No. The reconciliation-related ADIT adjustment that was considered and not
122 adopted historically by the Commission is the interest calculation “offset”
123 adjustment. That adjustment remains the AG’s preferred solution to this regulatory
124 problem and is sponsored by Mr. Effron. My alternative adjustment would include
125 reconciliation-related ADIT balances in rate base only if the historical treatment to
126 ignore these ADIT amounts when calculating reconciliation interest is continued.

127 **Q. Ms. Brinkman encourages the Commission to not “revisit” the arguments**
128 **presented by you and other witnesses regarding reconciliation-related ADIT**
129 **balances because your arguments “are not new” and there has not been “any**
130 **further legislative change” to affect this issue.⁶ Does this suggestion apply to**
131 **the AG’s alternative adjustment that you sponsor?**

132 A. No. The AG’s alternative adjustment that includes reconciliation-related ADIT
133 amounts in rate base is the correct response if the Commission decides to accept Ms.
134 Brinkman’s advice and maintain the course taken in prior dockets, which includes
135 not adjusting the reconciliation interest calculation for related ADIT benefits.

136 **Q. Ms. Brinkman argues, “As it relates to the ADIT on the reconciliation, there is**
137 **a timing difference for book purposes; however, that timing difference has not**
138 **reduced ComEd’s current income tax liability and has not provided ComEd**
139 **with cash. For tax purposes, the income taxes are deferred to align with the**

⁵ EIMA is an acronym for the Energy Infrastructure Modernization Act, including changes and additions made to the Illinois Public Utilities Act (“PUA”) by the General Assembly in Public Acts 97-0616, 97-0646, and 98-0015.

time that the revenues will be received, but the deferred tax expense has not been reflected in customer rates, and ComEd has not had access to non-investor supplied funds.” Is this true?

A. No. The fallacy is revealed in Ms. Brinkman’s very next statement where she says, “[t]hus in 2015, ComEd will receive the approximately \$230 million reconciliation balance and in connection with its 2015 tax return will also pay the taxes related to that reconciliation.” Contrary to Ms. Brinkman’s suggestion, interest should be charged to ratepayers for only the net cash flow the company was unable to timely recover⁷ in 2013, relative to its actual revenue requirement, while waiting to collect higher future reconciliation revenues. One should consider that if ComEd’s cash revenues had been \$230 million higher in 2013, the income taxes on that incremental cash revenue would have been payable in connection with the Company’s 2013 tax return, not the “2015 tax return” when Ms. Brinkman acknowledges that ComEd will, “...also pay the taxes related to that reconciliation.” The ADIT tax deferral benefits must be matched to the corresponding regulatory asset balance, either in calculating interest (Mr. Effron’s adjustment) or when determining rate base (my alternative AG adjustment) in order to properly account for the net cash flow effects of delayed recovery of reconciliation revenues and the corresponding payment of related income taxes.

Q. According to Ms. Brinkman, the fact that ComEd receives interest on the reconciliation balance, “...does not change the facts that ComEd does not

⁶ ComEd Ex. 12.0 at 25:526-533.

⁷ Although I am not a lawyer, I understand that under EIMA as implemented in ComEd’s formula rate, the annual reconciliation balances relate to the difference between the *originally authorized revenue requirement* for a given reconciliation year, against the actual realized costs for that year seen with the benefit of hindsight. Although the originally authorized revenue requirement may

161 **receive the revenue until after the reconciliation, that the income and the tax**
162 **are both deferred (there is no mismatch), or that ComEd must finance its**
163 **revenue shortfall.”⁸ Is this correct?**

164 A. It is correct that ComEd does not receive (or pay) the revenue until after the
165 reconciliation process is completed. This is the purpose of the reconciliation
166 process; to be sure that total revenue received ultimately matches the actual revenue
167 requirement calculated pursuant to formula. It is also true that both the revenue
168 realized in cash and the income taxes payable on that revenue when it is includable
169 within taxable income are matched. However, the last part of Ms. Brinkman’s
170 statement is not correct. What ComEd must finance (or marginally invest in the
171 case of reconciliation credits) is the net, after tax, income stream for which cash
172 realization is delayed (or accelerated) through the reconciliation process. There is
173 no dispute that the foregone cash flow associated with the reconciliation process has
174 a corresponding income tax impact, and is therefore a net-of-tax amount in terms of
175 financial impact.

176 Q. **According to Ms. Brinkman, “In the event that the customers overpay, the**
177 **reconciliation balances will be a positive number and will be equal to the**
178 **aggregate amount of the overpayment.”⁹ If the reconciliation calculation**
179 **indicates an over-collection of the revenue requirement, would ComEd have**
180 **the temporary use of the entire gross amount of revenues that exceeded its**
181 **actual revenue requirement?**

not have exactly equaled actual collections for the reconciliation year, for simplicity I will speak of “collect[ion]” or “recover[y]” instead of “authorization”.

⁸ *Id.* at 30:617-622.

⁹ *Id.* at 31:641-643.

182 A. No. ComEd would have received the excess cash and included the same amount
183 within its currently taxable income on its tax returns. When revenues are over-
184 recovered and reconciliation balances are to be refunded to ratepayers in future
185 years, the Company records on its book the following two types of accounting
186 entries:

- 187 • A regulatory liability is created, with the debit side of this entry reducing
188 current revenues to accrue the incremental revenues that are to be returned
189 to ratepayers in the future, and,
- 190 • An ADIT asset is recorded to recognize the prepayment of income taxes
191 associated with the regulatory liability for the additional taxable revenues
192 that were pre-collected in cash from ratepayers. The credit side of this entry
193 reduces deferred income tax expense, so as to recognize that cash income
194 tax expenses payable today on the “extra” revenues will be recouped in the
195 future when cash revenues are returned to ratepayers, then reducing taxable
196 income.

197 The regulatory liability represents the gross amount of additional revenue exceeding
198 the revenue requirement and that was recovered in cash, but that is removed from
199 book revenues and income to reflect the utility’s obligation to refund to ratepayers
200 with interest after reconciliation is performed. The related deferred income tax asset
201 represents incremental income taxes that are payable on the excessive cash
202 revenues, with such tax payments serving to reduce the utility’s realized incremental
203 cash flow. The utility should only be made to pay interest on the reconciliation
204 revenues it collected and was allowed to keep, after the payment of related income
205 taxes. However, if the reconciliation over-recovery balance upon which interest is

calculated is gross of income taxes, as proposed by Ms. Brinkman, then the utility should be allowed to include the debit ADIT balance in rate base to recognize the reduced, after-tax free cash flow that was actually available to the utility until over-recovered revenues have been refunded to customers through the reconciliation process.

Q. Ms. Brinkman suggests the AG has been inconsistent in its advocacy on this issue, stating, “In ICC Docket No. 12-0321, ComEd’s reconciliation balance was negative, which resulted in a refund to customers. Interest was applied to the full balance of the reconciliation. The AG did not challenge this issue in that docket, and customers received and retained those funds.” Has the AG been inconsistent?

A. No. In making this false claim, Ms. Brinkman must have ignored my Direct Testimony from Docket No. 12-0321 which supported full recognition of reconciliation-related ADIT balances, even though ComEd reconciliation calculations at that time resulted in refunds owed to customers. Specifically, I stated:

Q. After the issuance of the Commission May 29 Order in Docket No. 11-0721, has the \$29 million regulatory asset now become a large regulatory liability to be returned to customers in the Company’s compliance filing?

A. Yes. Under circumstances involving a refund to ratepayers, the application of the reconciliation interest rate to a net of tax basis would serve to decrease the Company’s refund obligation (and increase the reconciliation revenue requirement), by reducing total interest amounts accrued. However, regardless of the immediate ratepayer/shareholder impact, a complete accounting for reconciliation interest requires that the related income tax deferral effects not be ignored.¹⁰

¹⁰ Docket No. 12-0321, AG-AARP Ex. 1.0 at 22:551-559. At that time, I recommended that “...the most practical way to account for ADIT effects is to proportionately reduce the allowed interest

235
236 Similarly, in the Ameren formula rate case, Docket No. 13-0301, I
237 calculated the interest on Ameren's refund obligation on a net of tax basis,
238 which would have reduced Ameren's refund obligation from the amount
239 calculated by Ameren, using ComEd's approach.

240 **Q. Ms. Brinkman also disputes your comparison of reconciliation-related ADIT**
241 **balances to deferred storm cost ADIT balances, where the former are being**
242 **ignored by ComEd while the latter are included in rate base. How does Ms.**
243 **Brinkman attempt to distinguish between these two ADIT amounts?**

244 A. Ms. Brinkman states:

245 ComEd properly includes its deferred storm cost asset in rate base and nets
246 it with the associated ADIT liability because this asset (and other similar
247 regulatory assets such as severance costs) was established by recording a
248 reduction to expense which is reflected on the tax return in the same year
249 the expense was reduced for financial statement purposes. In that case,
250 ComEd has received a cash benefit, as it has not yet paid taxes on this
251 deferred expense, and it passes that benefit on to ratepayers via netting the
252 ADIT liability against the regulatory asset balance in rate base. ComEd
253 then recognizes the expense on its financial statements as it amortizes the
254 regulatory asset (over a prescribed number of years specific to that
255 regulatory asset), at which time the revenue is also recognized on the tax
256 return and income taxes are paid.”¹¹

257
258 **Q. In comparing deferred storm costs to accrued reconciliation revenues, are “the**
259 **two circumstances different”¹² as claimed by Ms. Brinkman?**

260 A. No. In both instances, the regulatory asset on the books represents an entitlement to
261 future rate recovery of costs not immediately collected through ICC-approved rates.
262 In both instances, the regulatory asset recorded on the books creates a book/tax

rate to a net of income tax equivalent rate.” (lines 563-579). When other issues were later raised regarding the appropriate interest rate to be applied, this approach was modified to directly offset the balance earning interest for reconciliation-related ADIT amounts, so as to not further complicate the discussion of the interest rate issue.

¹¹ ComEd Ex. 12.0 at 34:710-719.

263 timing difference. The incremental reconciliation revenues accrued on the books to
264 create the regulatory asset are not currently income-taxable, giving rise to credit
265 ADIT balances on the books. The incremental storm costs are also accrued on the
266 books to a regulatory asset, with a corresponding expense reduction, for future
267 amortized recovery from ratepayers, and are immediately income-tax-deductible,
268 giving rise to credit ADIT balances on the books. In both instances, ratepayers
269 provide a return on the accrued revenues and deferred expenses (the regulatory
270 assets), through either reconciliation interest calculations or through rate base
271 inclusion of the regulatory asset, respectively. The point is that ComEd does not
272 dispute the need to match the regulatory asset and related ADIT for deferred storm
273 costs, but the Company inexplicably resists recognizing the same need to match the
274 reconciliation-related ADIT to the corresponding regulatory asset for reconciliation
275 revenues, upon which an interest return is also earned by ComEd.

276 **Q. Does another ComEd witness argue that reconciliation-related ADIT should be**
277 **ignored, both when calculating interest and when quantifying rate base?**

278 A. Yes. ComEd witness Mr. Warren adopts what he calls a “prescribed interest” model
279 and then a “cost-based” model to discuss reconciliation-related income taxes.

280 **Q. How does Mr. Warren define his “prescribed interest” model?**

281 A. With regard to his “prescribed interest” model, Mr. Warren claims:

282 As is the case with all interest calculations, there are two components to
283 the calculation of reconciliation interest (whether on overcollections or
284 undercollections). The first component is the rate at which the interest
285 should be charged. The second component is the base to which the
286 interest rate should be applied. Under the ‘prescribed interest’ model, the
287 interest charge is simply a charge for the use of money.
288

¹² *Id.* at 34:709.

289 He then observes that “In this particular case, the statute prescribes the rate as
290 ComEd’s WACC. Under this model, the designated interest rate, the WACC, is
291 applied to the amount owed.” Mr. Warren then asserts, “[t]he amount owed in this
292 case is the rate year 2013 reconciliation balance, or approximately \$230 million.
293 The interest charged is simply the WACC multiplied by the reconciliation amount.”
294 Under his “prescribed interest” model, Mr. Warren claims that there is no role
295 played by income taxes because, “[i]nterest in this model is similar to interest
296 charged by a bank. It is based on a market benchmark, not the bank’s costs.”¹³

297 **Q. How does Mr. Warren then attempt to distinguish his so-called “cost-based”**
298 **model?**

299 A. The contrasting “cost-based” model Mr. Warren has adopted, “...is based on the
300 concept that the reconciliation interest is intended to capture all of ComEd’s costs,
301 including costs of incremental taxes. It calculates reconciliation interest on a
302 conventional utility ratemaking model – that is, based on the cost to the utility of not
303 having reconciliation funds or the benefit to the utility of having excess
304 reconciliation funds.” According to Mr. Warren, when the “cost-based” model is
305 being used, “...ADIT is reflected as zero-cost capital in any year where the utility
306 has the use of the funds produced by the underlying tax deferral. This provides
307 customers with the value produced by the utility’s ability to defer the payment of
308 income taxes while enjoying the benefits of the activity that are subject to tax.”¹⁴

309 **Q. After setting up his two conceptual constructs, the so-called “prescribed**
310 **interest” and “cost-based” models, does Mr. Warren take any position**
311 **regarding which should be used?**

¹³ ComEd Ex. 23.0 at 4:83-6:112.

312 A. Not directly. In fact, he states, “I am not opining on which model is called for by
313 the law. Nor am I addressing whether the reconciliation process produces an
314 incremental source or use of funds to or by ComEd in any given year. However,
315 whichever of the two models one chooses, one cannot argue inconsistently.” His
316 testimony then refers to last year’s ComEd formula rate docket, and claims
317 “[b]ecause I believe Messrs. Brosch, Effron, and Gorman have argued in support of
318 the ‘prescribed interest’ model when they opposed the WACC ‘gross-up’ proposal
319 in Docket No. 13-0553, they cannot now argue that a ‘cost-based’ model be applied
320 to determine the reconciliation balance. Yet this is precisely what they do.”¹⁵

321 **Q. Is it necessary, as suggested by Mr. Warren, for the Commission to ignore**
322 **income tax deferral benefits when it calculates the balance upon which interest**
323 **is allowed, simply because the Commission found that the interest rate**
324 **required under the statute is the WACC percentage without an income tax**
325 **factor-up?**

326 A. No. The applicable reconciliation interest rate and the applicable balance upon
327 which interest is allowed are two separate matters, as previously noted by the
328 Commission. With respect to the interest rate matter, the Commission’s Order in
329 Docket No. 13-0553 states, “The fact that the legislature, in P.A. 98-0015, specified
330 an interest rate, not a return, and set WACC as the interest rate to be applied to the
331 reconciliation balance without any mention of a ‘gross-up’ for the effect of income
332 taxes is determinative.”¹⁶ In contrast, on the balance question, the Commission
333 found less clarity in the statute, as noted in the quoted passages in my Direct

¹⁴ *Id.* at 6:113-128.

¹⁵ *Id.* at 8:168-176.

¹⁶ Order, Docket No. 13-0553, November 26, 2013, page 18.

Testimony, concluding that “[i]n the future, if further arguments from the parties are presented or clarity from the legislature is provided on this topic, the Commission will revisit this issue.”¹⁷

It is not necessary, as posited by Mr. Warren, for the Commission to reverse itself on the interest rate issue in order to recognize and account for reconciliation-related ADIT balances in quantifying the reconciliation balance upon which interest is properly earned (or paid).

Q. Is your suggested inclusion of reconciliation-related ADIT balances in rate base, as an alternative to offsetting the reconciliation balance that earns interest, in any way inconsistent as suggested by Mr. Warren?

A. No. I agree with the Commission’s determination that the statute requires use of an interest rate that is set equal to the WACC percentage. This finding does not imply that, for all other elements of the formula rate mechanism, income tax considerations must necessarily be ignored as suggested under Mr. Warren’s “prescribed interest” theory. The Commission’s finding regarding the interest rate does not preclude application of the approved interest rate to only the net cash flows foregone by ComEd while awaiting recovery from ratepayers – which is the amount recorded in the regulatory asset account, less the income tax deferral balance in the corresponding ADIT liability account. Mr. Effron has explained in his testimony why the ADIT balance should be recognized in calculating reconciliation interest. If the Commission remains troubled by the lack of clarity in the Act with regard to Mr. Effron’s proposed treatment of reconciliation-related ADIT balances,¹⁸ it should

¹⁷ *Id.*, page 43. See AG Exhibit 1.0 at 5:101-6:148.

¹⁸ *Id.*

356 adopt the alternative approach I recommend, which would include such ADIT
357 balances in rate base.

358 **Q. Mr. Warren also argues that “[t]he statute specifically provides for interest on**
359 **‘any over-collection or under-collection.’ By its terms, the amount of any over-**
360 **collection or under-collection does not implicate income taxes. Its focus is**
361 **entirely on the amount owed by or to customers – not to the taxability of that**
362 **amount. Thus, although it never specifically articulated its approach in these**
363 **terms, I believe that the Commission has, to date, systematically applied both**
364 **elements of the ‘prescribed interest’ model.”¹⁹ How do you respond?**

365 **A.** Mr. Warren suggests that what the statute does not say or “implicate” with respect
366 to income taxes must be determinative. This is precisely what the Commission’s
367 Order in Docket No. 13-0553 referred to as a lack of clarity, for which it invited
368 “further arguments from the parties or clarity from the legislature,”²⁰ because of
369 which the Commission said it would revisit the issue. I do agree with Mr. Warren
370 that the Commission has never articulated or formally adopted Mr. Warren’s
371 “prescribed interest” concept in determining how to treat reconciliation-related
372 ADIT balances.

373 **Q. Are you aware of another state utility commission that has simultaneously**
374 **applied a “prescribed interest” amount to accrued utility revenue balances that**
375 **are subject to reconciliation and then, at the same time, required offsetting of**
376 **the balance that is subject to interest for related ADIT balances, which Mr.**
377 **Warren has labeled the “cost based” model?**

¹⁹ ComEd Ex. 23.0 at 10:207.

²⁰ Order, Docket No. 13-0553, November 26, 2013, page 43.

378 A. Yes. The Hawaii Public Utilities Commission (“HPUC”) recently found that
379 income tax deferrals should be recognized as an offset to the balance of accrued
380 revenues that is allowed to earn interest within the Revenue Balancing Accounts of
381 the Hawaiian Electric Companies (“HECO Companies”).²¹ A short-term-debt cost
382 interest rate was ordered for application to deferred revenue balances, which Mr.
383 Warren would label as the “prescribed interest” approach. The HECO Companies
384 were then ordered to seek and obtain IRS approval for an income tax accounting
385 method change to secure the same income tax deferral benefits that are enjoyed by
386 ComEd and Ameren Illinois Company in Illinois. After obtaining IRS approval for
387 such accounting, the HECO Companies have modified their interest calculations
388 applicable to their deferred revenue regulatory asset balance, so as to employ a net-
389 of-income-tax approach. I have included within AG Exhibit 3.2 a complete copy of
390 the Attorney General’s response to ComEd->AG Data Request 4.01, which includes
391 selected documents associated with these HPUC findings in pending Docket No.
392 2013-0141 in the State of Hawaii.

393 **Q. Mr. Warren also claims that “...under Mr. Brosch's proposal, the ADIT**
394 **balance will offset rate base and thereby produce a rate reduction calculated at**
395 **ComEd’s ‘grossed up’ WACC. This represents an attempt at ‘rate arbitrage’**
396 **whereby the underlying debt (the reconciliation amount) attracts interest at**
397 **one rate and the tax effect of that item (the ADIT balance) attracts an interest**
398 **offset at a higher rate.” How do you respond?**

399 A. There is no attempt at “rate arbitrage” embodied in the rate base reduction treatment
400 I propose. The Commission’s Order in Docket No. 13-0553 found that the interest

²¹ The HECO Companies include Hawaiian Electric Company, Maui Electric Company, Ltd., and
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rate to be applied to the reconciliation balance is a percentage equal to the WACC. In that same Order, the Commission did not permit offsetting the reconciliation balance to recognize the corresponding ADIT benefits. The Attorney General's primary recommendation in this docket is to revisit and adopt the interest offsetting approach, as recommended by Mr. Effron. If this primary recommendation is not adopted, the alternative rate base adjustment I recommend has the effect of recognizing reconciliation-related ADIT balances as jurisdictional to the provision of ICC-regulated electric delivery services, along with all of the other ADIT balances that are included in rate base.

The resulting revenue requirement impact from rate base inclusion is driven by the Company's WACC, as applied to all other elements of rate base. This is a completely sensible alternative treatment of these ADIT balances, which clearly have nothing to do with ComEd's FERC-regulated transmission service business or with any business functions that have been determined to be non-regulated by the Commission. Mr. Warren and ComEd may not like the financial consequences of rate base treatment for these ADIT amounts, but the Company's position that the entire amount of such ADIT benefits, which is not investor supplier money, should be ignored and retained for the sole benefit of shareholders is clearly unreasonable.²²

I explained in my previous testimony in Docket No. 13-0553 that the deferred taxes associated with formula rate reconciliation balances are dynamic and the template used to calculate reconciliation balances is formulistic, so that a more

precise accounting for reconciliation interest can be achieved by simply restating the monthly reconciliation balances on Schedule FR A-4 to which the interest rate is applied to a net-of-tax equivalent. I explained how this more precise accounting assures that interest on the reconciliation balance is only applied to the monthly amount of net investor supplied capital arising from the delayed recovery or return of reconciliation revenues.²³ This ADIT offsetting approach remains the best and most precise approach to account for reconciliation-related ADIT amounts, but the rate base inclusion alternative I sponsor is much more reasonable than ComEd's proposal to keep such tax deferral benefits for the sole benefit of shareholders.

Q. Is your proposed rate base inclusion of reconciliation-related ADIT balances “imprecise” in the way it accounts for income tax deferrals arising from accrued revenues?

A. No. Generally Accepted Accounting Principles (“GAAP”) require use of the best available estimates when provisions are recorded for deferred income taxes and for the accrued revenues that are expected to be either recovered or returned in future periods.²⁴ ComEd's financial statements are subject to periodic audit to insure compliance with GAAP so that amounts reported to the investing public present fairly the Company's assets, liabilities and results of operations. Indeed, many of the ADIT balances that are reflected on the Company's books and that ComEd has included in its asserted rate base in ComEd Ex. 13.02 at WP 4 are estimates of

²² In ComEd Ex. 13.02, at page 27, the Company continues to characterize all of the reconciliation-related “Distribution Formula Rate” ADIT balance at line 98 as “Non-DST” assigning 0% to rate base.

²³ Docket No. 13-0553, AG Ex. 1.0, 15:334-342.

²⁴ Accounting Standards Codification 740-10-05-5 states, “There are two basic principles related to accounting for income taxes, each of which considered uncertainty through the application of recognition and measurement criteria: a) to recognize the estimated taxes payable or refundable

future income tax amounts that are expected to be payable or realizable after future income tax returns have been filed and finalized.²⁵

Q. Should your rate base treatment of reconciliation-related ADIT balances be rejected because of any “rate arbitrage” concerns?

A. No. All deferred income taxes represent a source of cost-free capital that ComEd can use to reduce the amount of capital otherwise needed to finance rate-base growth. Reconciliation-related ADIT amounts have the same impact upon ComEd’s financing requirements as all other ADIT balances and must not be ignored simply because the applicable statute allows only an interest return at the WACC percentage, without income tax factoring-up, for the corresponding regulatory asset balances.

Q. What changes are reflected in AG Exhibit 3.1, page 1, where you have revised your AG-proposed adjustments?

A. Page 1 of AG Exhibit 3.1 sets forth the revised rate base adjustment to include ADIT balances arising from the formula rate process. The amounts initially included for this adjustment in AG Exhibit 1.3 were based upon amounts set forth in ComEd Exhibit 3.02 (WP 4) at line 98. These amounts erroneously included ADIT balances associated with certain deferred merger costs. In its rebuttal filing, the Company disaggregated the formula rate- and merger-related ADIT amounts in

²⁵ for the current year as a tax liability or asset, b) to recognize a deferred tax liability or asset for the estimated future tax effects attributable to temporary differences and carryforwards.” ComEd Ex. 13.02, at pages 25-19, lists individual balances for ADIT in Accounts 190, 282 and 283, based upon estimates of the future income tax impacts of book/tax timing differences. The largest ADIT balances are property-related within Account 282, where tax accounting software is employed to calculate “liberalized depreciation” timing differences arising from book/tax depreciation accounting method, period and basis differences by vintage and classification of plant assets, in comparison to book depreciation/amortization expense that is recorded on ComEd’s books. The recorded amounts of ADIT remain subject to change when future final and amended tax returns are filed and as audit adjustments are resolved with the IRS.

ComEd Ex. 13.02, page 27, to separately show each balance. These revised and corrected amounts are set forth in AG Exhibit 3.1 at page 1. A more detailed discussion of the Company's recorded reconciliation-related ADIT balances and the corrections made by the Company in ComEd Ex. 13.02 is set forth in ComEd's response to data request AG 6.13, which I have included as AG Exhibit 3.3.

III. INCENTIVE COMPENSATION EXPENSES.

Q. According to Ms. Brinkman, "ComEd's AIP is not 'based on net income or an affiliate's earnings per share.' ComEd's AIP is based on operational metrics that benefit customers."²⁶ Is this true?

A. No. Payouts under ComEd's AIP are driven by both the operational metrics Ms. Brinkman chooses to emphasize, as well as the earnings per share ("EPS") of Exelon Corporation ("Exelon") pursuant to the Shareholder Protection Feature of the plan. If Exelon EPS does not achieve threshold levels, no payouts under the AIP can occur regardless of ComEd's performance relative to the operational metrics. If Exelon EPS does not achieve target levels, payouts under the AIP will be reduced even if operational performance would result in higher payouts in the absence of the Shareholder Protection Feature within the AIP. In all respects, the AIP is "based on" both operational metrics as well as the Exelon affiliate's earnings per share.

Q. According to Ms. Brinkman, "The only way the employees 'at risk' pay is funded is through superior operational performance, through controlling expenses, reducing outage duration and frequency, promoting safety, and

providing excellent customer service. Those awards cannot be funded or increased by ComEd's net income or an affiliate's EPS."²⁷ **Is this true?**

A. Her statement is not complete. The other way that employees' pay under the AIP is funded or increased is when Exelon Corporation, an affiliate of ComEd, achieves higher than Threshold, Target or Distinguished EPS levels, causing the Shareholder Protection Feature to not be invoked to influence payouts under the AIP. At any given level of ComEd operational performance, the awards actually payable under the AIP are directly impacted by the EPS levels achieved by Exelon. In fact, based upon Ms. Brinkman's Direct Testimony in this docket²⁸, actual AIP awards expense in 2013 would have been higher if Exelon's achieved EPS had been higher in 2013. The AIP awards can clearly be reduced based on an affiliate's EPS.

Q. Ms. Brinkman states that "ComEd's AIP could not have been based on Exelon earnings because no matter how high Exelon's earnings were in 2013, those earnings did not and could not increase ComEd's total payout."²⁹ **Do you agree?**

A. No. For example, if Exelon's EPS had been higher in 2013, ComEd's total AIP payout for 2013 would have been higher because the Shareholder Protection Feature would have imposed a smaller reduction upon such payouts for the year.

In the Company's 2013 AIP Award Calculation, Actual Exelon EPS was \$2.50 per share. For 2013, the "Target" level for EPS was \$2.49 and the "Distinguished" level was \$2.72, as reflected at page 3 of the Exelon AIP plan

²⁶ ComEd Ex. 12.0 at 4:63-66.

²⁷ *Id.* at 4:66-70.

²⁸ ComEd Ex. 2.0 at 21:440-442 and 23:472-475.

²⁹ ComEd Ex. 12.0 at 6:110-112.

documentation provided in response to data request RWB 7.01.³⁰ Interpolating within this range of \$0.23 in EPS from “Target” to “Distinguished” performance, the actual EPS earned by Exelon Corporation of \$2.50 resulted in an EPS Percentage of 104.35% ($\$0.01 \text{ over target} / \$0.23 \text{ within range} = 4.35\% \text{ above } 100\%$). The Shareholder Protection Feature limit was then established by adding 20 percent to this value, resulting in the 124.35% Shareholder Protection Feature limit that was effective in 2013. These calculations can be observed in ComEd’s response to AG 7.01, Attachment 1, which I have included within AG Exhibit 3.4. Ms. Brinkman has noted in her direct testimony that, although the Total ComEd KPI Performance in 2013 was 140.4%, the AIP payout in 2013 was limited to 124.4% due to the plan’s Shareholder Protection Feature and that the Shareholder Protection Feature “reduced the total payout by approximately \$8.5 million.”³¹

If Exelon Corporation’s actual EPS in 2013 had instead been only four cents higher, at \$2.54 instead of \$2.50, the EPS Percentage would have been 121.74% and the resulting Shareholder Protection Feature limit of 141.74% would have resulted in no reduction in AIP payouts due to the Shareholder Protection Feature in 2013.³² Contrary to Ms. Brinkman’s rebuttal testimony, higher Exelon earnings in 2013, above the actual \$2.50 EPS level, would have directly and significantly increased AIP payouts.

Q. According to Ms. Brinkman, “In 2013, ComEd’s expense was the result of a two-step process. First, employees earned incentive compensation based on

³⁰ See AG Exhibit 1.7 at 4.

³¹ ComEd Ex. 2.0 at 23:472-475.

³² Following the interpolation methodology used by ComEd to calculate the Shareholder Protection Feature, as shown in the Company’s response to data request RWB 14.01 (included as AG Exhibit

meeting operational metrics described below. Second, their total payout was limited by Exelon EPS.” Does this “two-step” process change the fact that AIP payouts are, in part, based on Exelon’s EPS?

A. No. The Shareholder Protection Feature is a key driver of actual payouts, whether it is applied first or last in the calculations. In fact, if Exelon Corporation fails to meet the minimum “Threshold” EPS that was set at \$2.22 for 2013, no further calculation steps are required to administer the AIP because under the formal plan document, “if threshold performance of the Company’s Earnings Per Share goal is not achieved, then the Total Award Amount shall be zero” as more fully described in paragraph 8.1 of that document. This document was provided in response to data request AG 7.06. In its response to data request AG 9.06, ComEd confirmed that “there are no differences” between the Shareholder Protection Feature that applies within ComEd’s AIP and the Exelon AIP provided in the response to data request AG 7.06, Attachment 1. A complete copy of both of these responses is included in AG Exhibit 3.6.

Q. Ms. Brinkman also asserts that “ComEd never incurs increased incentive compensation cost based on Exelon’s earnings.”³³ Is this true?

A. No. Because of the Shareholder Protection Feature, higher Exelon earnings and EPS, relative to the Threshold, Target and Distinguished levels specified in the Shareholder Protection Feature, will translate directly into higher incentive compensation cost. As I just explained, the \$8.5 million in AIP payout reductions

3.5), \$2.54 exceeds Target by \$0.05, which represents 21.74% of the \$0.23 EPS range from Target to Distinguished performance level set at \$2.72.

³³ ComEd Ex. 12.0 at 6:129.

that was experienced in 2013 due to the Shareholder Protection Feature would not have occurred if Exelon EPS had been only four cents higher that year.

Q. Ms. Brinkman also states, “Theoretically, ComEd employees could exceed target performance on all of those metrics, such that customers would get the benefit of that performance, yet not receive any AIP because Exelon failed to meet a certain level of earnings.”³⁴ Do you agree that this is quite possible because of the SPF within the plan?

A. Yes. The overall constraining element of the AIP is its Shareholder Protection Feature, which reduced actual awards in 2013. Because of this fact, I maintain that payouts under the AIP are based, in significant part, upon the Exelon Corporation affiliate’s EPS. If Exelon EPS falls below Threshold levels, no payouts occur irrespective of how well ComEd’s employees improve ComEd’s performance.

Q. Does it make sense that ComEd employees would strive to exceed target performance under each of the AIP operational metrics mentioned in Ms. Brinkman’s rebuttal if the employees reasonably expected that Exelon Corporation’s EPS would fail to meet Threshold levels, resulting in no possible AIP payouts?

A. Of course not. The premise of incentive compensation is that employees will respond to financial incentives in ways that produce tangible operational benefits and/or cost savings that exceed the costs of the additional compensation. Under this premise, insertion of a Shareholder Protection Feature based upon Exelon EPS serves to dilute or completely eliminate the intended linkage between operational performance and the incentive payouts actually received by the employees. If an

³⁴ Id, 7:136-139.

572 EPS Shareholder Protection Feature has the effect of constraining the compensation
573 paid to employees for exceptional operational performance, the employees' focus
574 can be expected to shift toward efforts that improve Exelon EPS, rather than
575 focusing solely upon operational performance. Although ComEd's return on equity
576 (which forms a portion of overall Exelon earnings per share) is subject to a cap
577 under the Energy Infrastructure Modernization Act, ComEd employees and the
578 many Exelon Business Services Company ("BSC") employees serving ComEd still
579 have the ability to try to influence ComEd profitability upward toward that cap.

580 **Q. Ms. Brinkman also quarrels with your comparison of the AIP to the**
581 **Commission's disallowance of 2012 LTPSAP costs in Docket No. 13-0318. She**
582 **claims, "By contrast, both the ComEd and BSC AIP have specific percentages**
583 **based on specific metrics related to operational performance, which the**
584 **Commission has found prudent and reasonable in the past."**³⁵ **How do you**
585 **respond?**

586 **A.** The "specific percentages based on specific metrics related to operational
587 performance" that are emphasized by Ms. Brinkman and ComEd's other witnesses
588 on this topic do not control the AIP payouts that occur, but instead work together
589 with the Shareholder Protection Feature, based on Exelon EPS, to determine the
590 amounts actually payable at any given level of operational performance.

591 **Q. ComEd witness Mr. Prescott refers to the Shareholder Protection Feature by**
592 **name only once in his rebuttal, labeling it as, "...simply a limiter to all of the**
593 **Operating Companies' AIP awards"**³⁶ **and then claims that "Since the limiter**
594 **only modifies awards negatively, not having this feature in place would often**

³⁵ *Id.* at 9:179-10:189.

595 **result in higher awards. In short, because of the limiter, ComEd’s customers**
596 **are often able to enjoy a higher level of performance for less money. In this**
597 **respect, the limiter really functions as a customer protection feature.” Do you**
598 **agree with Mr. Prescott’s characterization of the SPF as a “customer**
599 **protection feature”?**

600 A. No. One must first accept the premise that ComEd employees would strive equally
601 to perform relative to the established AIP operational performance metrics, whether
602 or not the AIP payouts they receive for such performance can be reduced or
603 completely eliminated when Exelon Corporation’s EPS falls below Threshold or
604 Target levels. This is not a reasonable assumption. If my compensation were
605 driven by the EPS of my employer or its affiliate, I would monitor and seek to
606 improve EPS performance in every way possible. Additionally, Mr. Prescott’s
607 “customer protection feature” characterization would seem to suggest that ComEd
608 customers need some protection against paying potentially excessive AIP awards,
609 but only when Exelon Corporation EPS falls below Threshold or Target levels. If
610 AIP awards payable for achievement of operational performance are excessive, this
611 would be true without regard to Exelon’s achieved EPS.

612 **Q. Is it likely that ComEd employees are aware of the financial forecasts and**
613 **financial performance of Exelon Corporation and understand how the**
614 **Shareholder Protection Feature may impact their AIP compensation?**

615 A. Yes. The Company was asked about the relationship between the Shareholder
616 Protection Feature and employee performance relative to AIP operational metrics in

a series of data requests. I have included within AG Exhibit 3.7 a copy of the Company's responses to data requests AG 9.07 through AG 9.10 on this topic.

Q. Mr. Prescott claims that, under the current AIP, ComEd's customers will not "pay for an award that is based on the EPS of an affiliate."³⁷ Is this accurate?

A. No. Exelon EPS via the Shareholder Protection Feature is a determinant of the overall amount of AIP payouts that occur. One must adopt a strained definition of the phrase "based on" to conclude first that awards are earned "based on" performance relative to operational metrics within the AIP, but are then separately "limited", while not being "based on" Exelon EPS pursuant to the Shareholder Protection Feature. Indeed, Mr. Prescott adopts Ms. Brinkman's "two-step" argument where he states, "[a]wards are calculated based on ComEd operational KPIs, and then they may be limited, or in extreme circumstances reduced to zero, by the limiting feature."³⁸ The fact that the Shareholder Protection Feature can completely eliminate all AIP payouts, even when operational performance is strong, causes me to conclude that AIP payouts are actually based upon both the operational metrics and the Shareholder Protection Feature, with the latter receiving up to 100 percent weighting in the calculation of awards. Indeed, one alternative way of describing the ComEd AIP is that the overall level of potential incentive payouts is first determined by the adjusted (non-GAAP) Exelon EPS, and then the actual payout within the resulting range is determined by the achievement of ComEd's operational KPIs.

³⁷ *Id.* at 11:216-220.

³⁸ *Id.* at 12:239-241.

638 **Q. ComEd witness Mr. Brookins also claims that ComEd's 2013 AIP expense is**
639 **not based on any metrics such as net income or Earnings Per Share.³⁹ How do**
640 **you respond?**

641 A. This statement appears to be made by adopting Ms. Brinkman's and Mr. Prescott's
642 definition of "based on" and then completely ignoring the Shareholder Protection
643 Feature and the role of Exelon EPS in determining the amounts of AIP cost actually
644 incurred in 2013. Indeed, Mr. Brookins' testimony makes no reference to the
645 Shareholder Protection Feature or its impact upon AIP costs despite the fact that it
646 is clearly one of the key factors determining payments under the AIP.

647 **Q. ComEd witness Mr. Wathan's rebuttal testimony concludes that "While Mr.**
648 **Brosch has recommended disallowing all short-term incentive compensation at**
649 **ComEd, our analysis concludes that ComEd needs to maintain this component**
650 **of compensation to maintain its market competitive pay mix."⁴⁰ Would**
651 **Commission approval of your adjustment force the Company to no longer**
652 **maintain the AIP?**

653 A. No. My proposed adjustment is based upon my understanding of the statutory
654 restrictions within the Public Utilities Act in relation to the Company's AIP
655 parameters, recognizing that the Shareholder Protection Feature element of the AIP
656 conditions all payouts upon Exelon EPS performance. Exelon and ComEd could
657 elect to either continue the AIP in its present form or to modify the specific terms
658 within the AIP, whether or not the Commission adopts the ratemaking adjustment I
659 have proposed.

³⁹ ComEd Ex. 19.0 at 5:80-83.

⁴⁰ ComEd Ex. 20.0 at 6:124-128.

660 **Q. Mr. Wathan also states, “[t]he operational metrics in ComEd’s AIP are**
661 **commonly included in the plans that we reviewed” and concludes that**
662 **“ComEd is at the forefront among its peers in its focus on goals targeting**
663 **customer benefits.”⁴¹ How do these statements relate to the role of the**
664 **Shareholder Protection Feature in determining AIP payout amounts?**

665 A. These statements are unrelated to the Shareholder Protection Feature, which Mr.
666 Wathan discusses separately and later in his testimony, where he characterizes the
667 Shareholder Protection Feature as a “limiter” rather than as one of the metrics that
668 actually determines AIP payouts. With regard to the Shareholder Protection
669 Feature, Mr. Wathan states, “In the case of the ComEd limiter, it is strictly a
670 ‘negative limiter’ in that it can only negatively impact the amount of incentive
671 compensation paid out.”⁴²

672 **Q. In ComEd Exhibit 12.01 REV, Ms. Brinkman provides a revised quantification**
673 **of the 2013 distribution of AIP costs, and concludes in testimony that “...the**
674 **total amount related to ComEd AIP included in the revenue requirement is**
675 **approximately \$39.1 million.”⁴³ Do the revised amounts you have included in**
676 **AG Exhibit 3.1 on page 1 comport with this figure?**

677 A. Yes. There was no summary of fully distributed AIP costs provided in ComEd’s
678 Direct Testimony, so I was forced in my direct testimony to rely upon supporting
679 workpapers for the Company’s lead-lag study to derive gross AIP costs, then using
680 estimated values to determine indirect impacts of AIP cost disallowances. I also

⁴¹ *Id.* at 7:143-154.

⁴² *Id.* at 8:160-9:172.

⁴³ ComEd Ex. 12.0 REV at 10:190-193.

failed to fully account for jurisdictional allocation factors in parts of the previously submitted issue quantification.

Q. In preparing AG Exhibit 3.1, have you also revised the adjustment eliminating 2013 LTPSAP expenses that originally appeared at page 3 of AG Exhibit 1.3?

A. Yes. I continue to recommend that the entire cost of LTPSAP expense should be eliminated, as explained in my direct testimony. However, ComEd has now modified its position in rebuttal and is seeking recovery of only 5.7% of 2013 recorded LTPSAP expenses, rather than the 13.5% proposed in ComEd's direct testimony. According to ComEd witness Ms. Brinkman:

“...ComEd does see some merit in Mr. Gorman's alternative proposal, and, in order to limit the issues in this proceeding, ComEd will accept Mr. Gorman's alternative proposal, and, in order to limit the issues in this proceeding, ComEd will accept Mr. Gorman's alternative methodology. This would result in an inclusion of 1/3 of the total CAIDI and SAIFI metrics as calculated under the LTPSAP metrics with a limit of 125%. ComEd's calculation differs slightly from Mr. Gorman's and is shown on ComEd Ex. 12.02.”⁴⁴

This change in ComEd's position requires modification of the Attorney General's LTPSAP elimination adjustment, to reflect the lower expense level now being recommended by the Company after the larger self-disallowance that is included in the Company's rebuttal. My revised adjustment at AG Exhibit 3.1, page 3, now adjusts the Company's revised “Removal %” value from the Company's updated 94.3% position to 100%, for the reasons stated in my Direct Testimony.

⁴⁴ ComEd Ex. 12.0 at 11:217-224.

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IV. CONCLUSION AND RECOMMENDATION.

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710 **Q. What is your recommendation regarding the initial revenue requirement to be**
711 **determined for ComEd in this Docket?**

712 A. I recommend that ComEd's delivery service revenue requirement be adjusted to
713 reflect the recommended changes described in my rebuttal testimony. This amount
714 should be further modified for any Commission-approved ratemaking adjustments
715 proposed by the Staff and other parties, that are not addressed in my or Mr. Effron's
716 Testimony.

717 **Q. Does this conclude your testimony at this time?**

718 A. Yes.